REMARKS

In the Office Action, the Examiner rejected Claims 1-8, 10-16 and 20-23, which are all of the pending claims, under 35 U.S.C. §102 as being fully anticipated by U.S. Patent 6,226,618 (Downs et. al).

The rejection of the claims is respectfully traversed. Also, in order to improve the form and readability of the claims, this opportunity is being taken to amend claims 1, 2, 3, 10 and 13.

The present invention relates to a system and method for charging for copying or using digital data. In a preferred system, a server machine runs a content generator program, and a client machine runs a watermarking/accounting program. The server machine generates content, with or without marking, and then the server machine delivers the content to the client machine, for example, via a communications network. Also, the server machine writes charging data into an IC card, which is provided to a user.

The client machine separates data program from the digital contents delivered by the server machine, may embed digital watermarks in the data programs, and provides the data programs to the user.

The IC card, which the user is provided, includes charging data and recognition data for identifying data programs used by the user. An important aspect of the invention is that charges for using the data are determined dynamically – that is, the charges may be calculated at the time of use based on a number of variable factors including the extent of use.

Downs discloses an electronic content delivery system, however, this reference is principally directed to procedures for encrypting and decrypting that content. For example, the reference discloses procedures for selecting a desired encoding procedure and how to deliver the

electronic content using that encoding procedure. Importantly, however, Downs does not provide any detailed procedure for charging for that delivered content.

Independent Claims 1, 2, 3, 10 and 13 include important features relating to the charging procedure of the present invention. More specifically, Claims 1 and 3 include the limitation that accounting logic is used for dynamically charging for the use of recognized or identified object data, and Claim 2 includes the step of dynamically charging only for the use of defined object data. Similarly, claims 10 and 13 set forth the step of dynamically charging for the use of recognized data.

This feature of the present invention is of utility for a number of reasons. For example, it allows a price to be based on any one or more of a number of factors, which themselves may vary from time-to-time or be based on other considerations.

The other references of record have been reviewed, and it is believed that these other references are no more pertinent than Downs. In particular, these other references, whether they are considered individually or in combination, do not disclose or suggest the above-discussed dynamic nature of the charging procedure of this invention.

Because of the above-discussed differences between Claims 1, 2, 3, 10 and 13 and the prior art, and because of the advantages associated with those differences, these claims patentably distinguish over the prior art and are allowable. Claims 20 and 21 are dependent from Claim 1 and are allowable therewith, and Claims 4-8 are dependent from Claim 3 and are allowable therewith. Likewise, Claims 11, 12, 22 and 23 are dependent from, and are allowable with, Claim 10; and Claims 14-16 are dependent from, and are allowable with, Claim 13. Accordingly, the Examiner is respectfully requested to reconsider and to withdraw the rejection of Claims 1-8, 10-16 and 20-23 under 35 U.S.C. §102, and to allow these claims.

For the reasons advanced above, the Examiner is asked to reconsider and to withdraw the rejection of Claims 1-8, 10-16 and 20-23, and to allow these claims. If the Examiner believes that a telephone conference with Applicants' Attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully Submitted,

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